

REMARKS

By the above actions, the specification, abstract and claims 1, 2, 4-8, 10, and 11 have been amended. In view of these actions and the following remarks, reconsideration of this application is requested.

In response to the objection to the abstract, it has been amended above to be limited to 150 words or less and all claim type terminology removed. Therefore, this objection should be removed.

Likewise, the correction need to page 6, line 27, noted by the Examiner has been implemented, so that the objection to the specification should also be withdrawn.

With regard to the objection to claims 1-6, 10 and 11 and rejection for indefiniteness of claims 1-6 and 11, all of the points raised by the Examiner have been addressed by the above amendments, so that the claims are now clear and definite. Therefore, withdrawal of the objection to and rejection of the claims is also in order and is hereby requested.

Claims 1-14 were rejected under 35 USC § 112, first paragraph as failing to comply with the enablement requirement. This rejection is respectfully traversed for the following reasons.

First, the Examiner is reminded that the specification need only be written to the level of the person skilled in the art, such that it need not describe what is within such a person's knowledge (the requisite knowledge of mechanical movement mechanisms is even reflected in the more than a half-century old Hahn reference relied upon by the Examiner). In the present case, once being told that two knives are to be driven simultaneously with different strokes, the selection of an appropriate drive structure for driving the knives in the claimed manner becomes a simple task that was clearly within the capabilities of the person of ordinary skill, particularly given what is shown in the drawings.

That is, as can be seen in the drawings of this application, Fig. 3 shows a drive means 12 connected to a rotor 10 to which the knives 4, 5 are eccentrically connected, so that one turn of the rotor 10 will cause the knives 4, 5 to reciprocate back and forth, and for the next cutting action, the rotor would be turned back in the opposite direction. Furthermore, relative to Fig. 5 and its description on page 7, it is clear that the rotor 10 works as a crank to move the knives 4, 5 via the two gear mechanisms 14, 15, the first mechanism 14 being a

simple crank while the second mechanism is a little more complex in order to be able to stop the movement of the knife 4 while the knife 5 cuts through the extruded ice cream mass.

Therefore, it is submitted that the figures and description do, in fact, provide a disclosure that would enable a person of ordinary skill in the art to make and use the claimed invention without any further illustrations or descriptions beyond those originally provided. Accordingly, the rejection under the first paragraph of § 112 should be withdrawn and such action is hereby requested.

Claims 1 and 2 have been rejected under 35 USC § 102 as being anticipated by the Hahn patent. This rejection is considered to be inappropriate for the following reasons.

The Hahn patent is directed to a bloom shearing device for severing of hot metal ingots that are still in a plastic state, and has absolutely nothing in common with devices for extruding ice cream and cutting the extrude into individual ice cream portions. Thus, it is assumed that this rejection must be viewed in the context that it was made relative to the claims “as best understood” given the areas of indefiniteness indicated by the Examiner in his objections and § 112 rejections. However, as now clarified and rendered definite, it should be apparent to the Examiner that the Hahn patent cannot even render obvious, let alone anticipate, the invention as defined by the amended claims now presented which recite a “device for producing individual ice cream product pieces by through-cutting of an extruded ice cream mass, comprising an ice cream extruder and a nozzle out of which the ice cream mass is extruded and a cutting means located immediately below the nozzle for cutting up the extruded ice cream mass into product pieces which fall down on a receiving device for further processing,” since no ice cream extruder is disclosed, nor is there any disclosure of knives positioned immediately below the nozzle of the extruder.

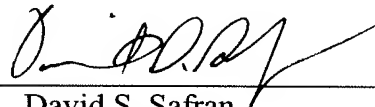
Therefore, Hahn not even possessing the basic environment of the present invention, cannot anticipate the further details of the claimed invention. Accordingly, withdrawal of the rejection based upon the Hahn patent is hereby requested.

The references that have been cited but not applied by the Examiner have been taken into consideration. However, since these references were not found to be relevant enough by the Examiner to apply against the original claims, no detailed comments thereon are believed to be warranted at this time.

While this application should now be in condition for allowance, in the event that any issues should remain after consideration of this response which could be addressed through discussions with the undersigned, then the Examiner is requested to contact the undersigned by telephone for that purpose.

Respectfully submitted,

By: \_\_\_\_\_



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